

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION**

UNITED STATES OF AMERICA,

*Plaintiff,*

V.

5.695 ACRES OF LAND, MORE OR LESS,  
SITUATE IN HIDALGO COUNTY, STATE  
OF TEXAS, AND CAPOTE FARMS, LTD,  
ET AL.

*Defendants.*

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CASE NO.: 7:20-CV-153

## COMPLAINT IN CONDEMNATION

1. This is a civil action brought by the United States of America at the request of the Secretary of the Department of Homeland Security, through [the Acquisition Program Manager, Wall Program Management Office, U.S. Border Patrol Program Management Office Directorate, U.S. Border Patrol, U.S. Customs and Border Protection, Department of Homeland Security], for the taking of property under the power of eminent domain through a Declaration of Taking, and for the determination and award of just compensation to the owners and parties in interest.

2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1358.

3. The interest in property taken herein is under and in accordance with the authority set forth in Schedule “A.”

4. The public purpose for which said interest in property is taken is set forth in Schedule “B.”

5. The legal description and map or plat of land in which certain interests are being

acquired by the filing of this Complaint, pursuant to the Declaration of Taking, are set forth in Schedules “C” and “D.”

6. The interest being acquired in the property described in Schedules “C” and “D” is set forth in Schedule “E.”

7. The amount of just compensation estimated for the property interest being acquired is set forth in Schedule “F.”

8. The names and addresses of known parties having or claiming an interest in said acquired property are set forth in Schedule “G.”

9. Local and state taxing authorities may have or claim an interest in the property by reason of taxes and assessments due and eligible.

WHEREFORE, Plaintiff requests judgment that the interest described in Schedule “E” of the property described in Schedules “C” and “D” be condemned, and that just compensation for the taking of said interest be ascertained and awarded, and for such other relief as may be lawful and proper.

Respectfully submitted,

**RYAN K. PATRICK**  
United States Attorney  
Southern District of Texas

By: *s/ Manuel Muniz Lorenzi*  
**MANUEL MUNIZ LORENZI**  
Assistant United States Attorney  
Southern District of Texas No. 338159  
Puerto Rico Bar No. 21246  
1701 W. Bus. Highway 83, Suite 600  
McAllen, TX 78501  
Telephone: (956) 618-8010  
Facsimile: (956) 992-9425  
E-mail: MMunizLorenzi@usa.doj.gov

# SCHEDULE A

**SCHEDULE A**

**AUTHORITY FOR THE TAKING**

The property is taken under and in accordance with 40 U.S.C. §§ 3113 and 3114, which authorize the condemnation of land and the filing of a Declaration of Taking; the Act of Congress approved September 30, 1996, as Public Law 104-208, Division C, Section 102, 110 Stat. 3009-546, 3009-554-55, as amended and codified at 8 U.S.C. § 1103(b) & note; and the Act of Congress approved the Act of Congress approved February 15, 2019, as Public Law 116-6, div. A, tit. II, Section 230, 133 Stat. 13, which appropriated the funds that shall be used for the taking.

# SCHEDULE B

**SCHEDULE B**

**PUBLIC PURPOSE**

The public purpose for which said property is taken is to construct, install, operate, and maintain roads, fencing, vehicle barriers, security lighting, cameras, sensors, and related structures designed to help secure the United States/Mexico border within the State of Texas.

# SCHEDULE C

## **SCHEDULE C**

### **LEGAL DESCRIPTION**

Hidalgo County, Texas

Tract: RGV-WSL-2001

Owner: Capote Farms, Ltd., et al.

Acres: 5.695

**BEING** a 5.695 acre (248,077 square feet) parcel of land, more or less, being out of the Antonio Velasco Survey, Abstract No. 45, Hidalgo County, Texas and being out of the remainder of lots 398 and 399 of Kelly-Pharr subdivision, recorded in Volume 3, Page 133, Deed Records of Hidalgo County, Texas and being out of a tract of land conveyed to Capote Farms, Inc. by Deed recorded in Instrument No. 2001-1006793, Official Records of Hidalgo County, Texas and being out a tract of land conveyed to Capote Farms, Inc. by General Warranty Deed recorded in Instrument No. 2002-1058050, Official Records of Hidalgo County, Texas, said 5.695 acre (248,077 square feet) parcel of land being more particularly described by metes and bounds as follows;

**COMMENCING** at a found 1/2" rebar having a coordinate value of N=16556195.867, E=1085052.401, said point being in the south line of the remaining portion of Lot 398, Kelly-Pharr Subdivision, at a northeast corner of a called 429.1384 acre tract recorded in Instrument No. 2008-1877609, Official Records of Hidalgo County, Texas;

**THENCE** N 81°18'27" W, (N 81°20'41" W, Record) with the south line of the remaining portion of Lots 398 and 399, Kelly-Pharr Subdivision, the north line of the called 429.1384 acre tract, a distance of 755.30 feet to a set 5/8" rebar with a "MDS" cap stamped "RGV-WSL-2000-1=2001-1" for the **PLACE OF BEGINNING** and an angle point in the south line of the herein described proposed acquisition tract, said point having a coordinate value of N=16556310.016, E=1084305.777;

- (1) **THENCE** N 81°18'27" W, (N 81°20'41" E, Record) continuing with the south line of the remaining portion of Lot 399, Kelly-Pharr Subdivision, the north line of the called 429.1384 acre tract, a distance of 449.39 feet to a set 5/8" rebar with a "MDS" cap stamped "RGV-WSL-2001-2" for the southwest corner of the herein described tract, the southwest corner of the remaining portion of Lot 399, the southeast corner of the G.S.A. Subdivision, recorded in Volume 29, Page 108, Map Records of Hidalgo County, Texas;
- (2) **THENCE** N 09°03'45" E, departing the north line of the called 429.1384 acre tract, with the east line of the G.S.A. Subdivision, the west line of the remaining portion of Lot 399, a distance of 73.59 feet to a point for corner in the south line of a 130.0' wide Hidalgo County Irrigation District No. 2 Canal right-of-way recorded in Volume 26, Pages 244-247, Deed Records of Hidalgo County, Texas, said point marking the beginning of a curve to the left, said point bears S 81°27'24" E, a distance of 1923.02 feet from United States Army Corps of Engineers Control Point No. 109, said control point being a mag nail in the north end of the east concrete headwall near the intersection of the west line of Lot 400,

Kelly-Pharr Subdivision, and the Hidalgo County Water Improvement District No. 2 canal lateral;

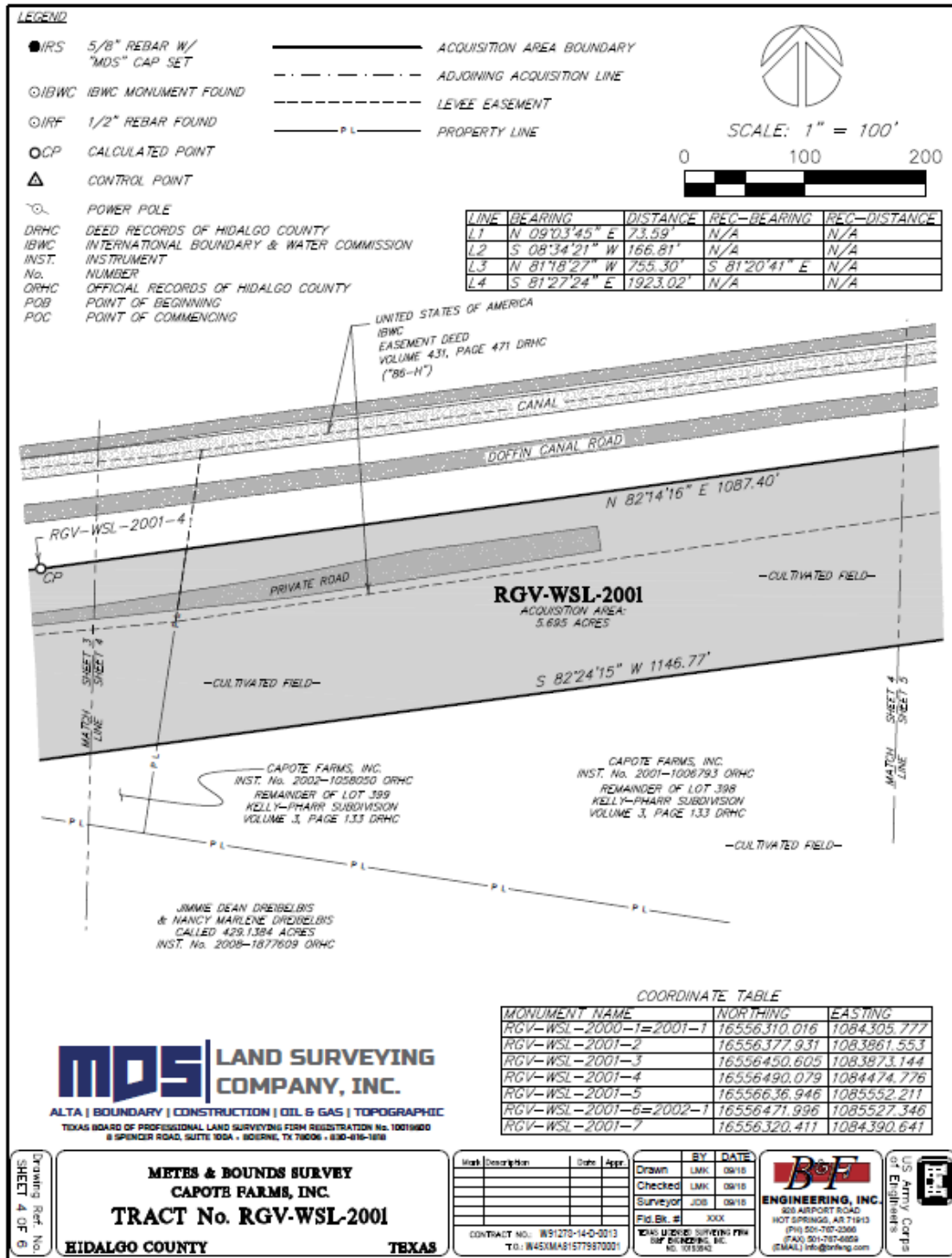


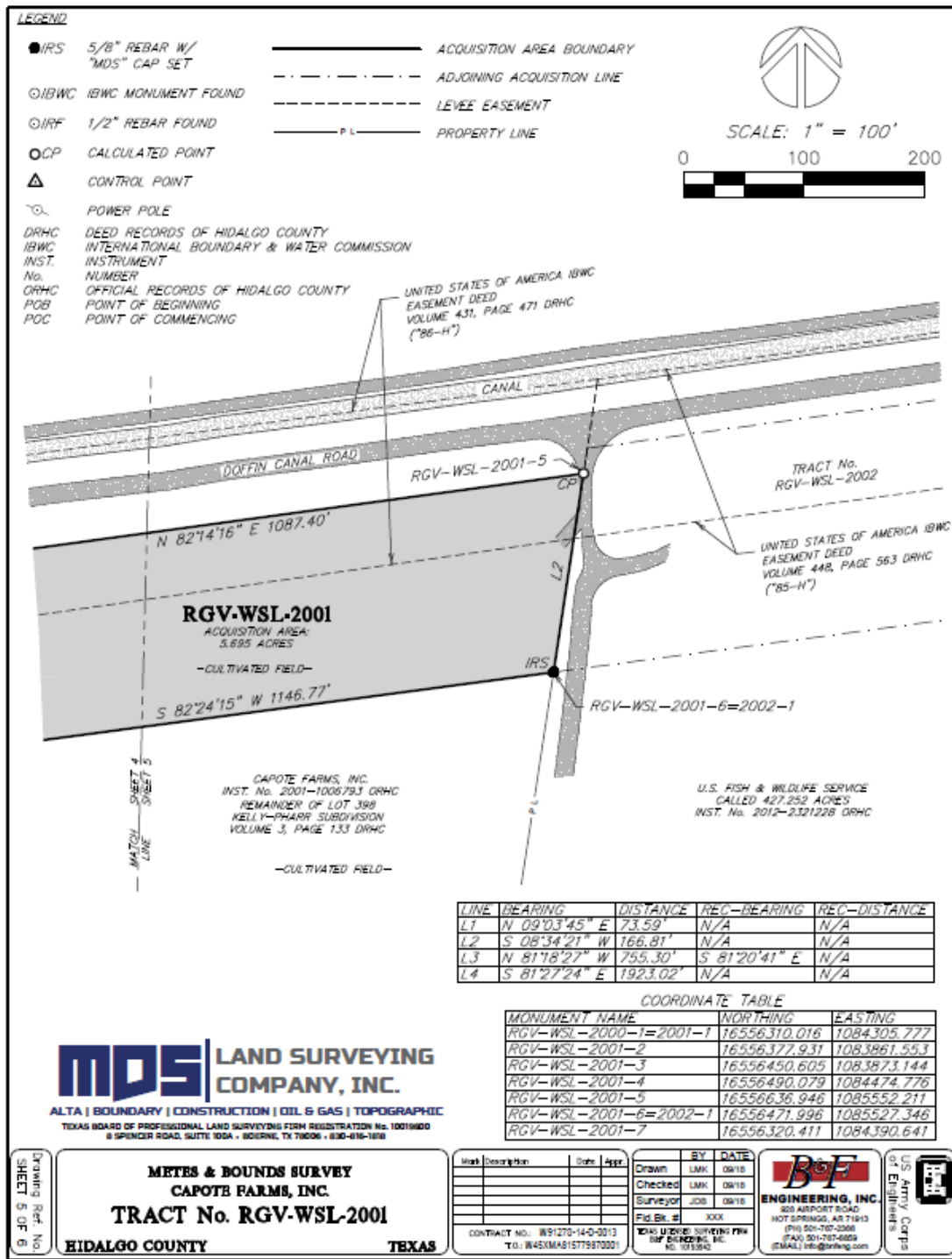
**SCHEDULE C, cont'd**

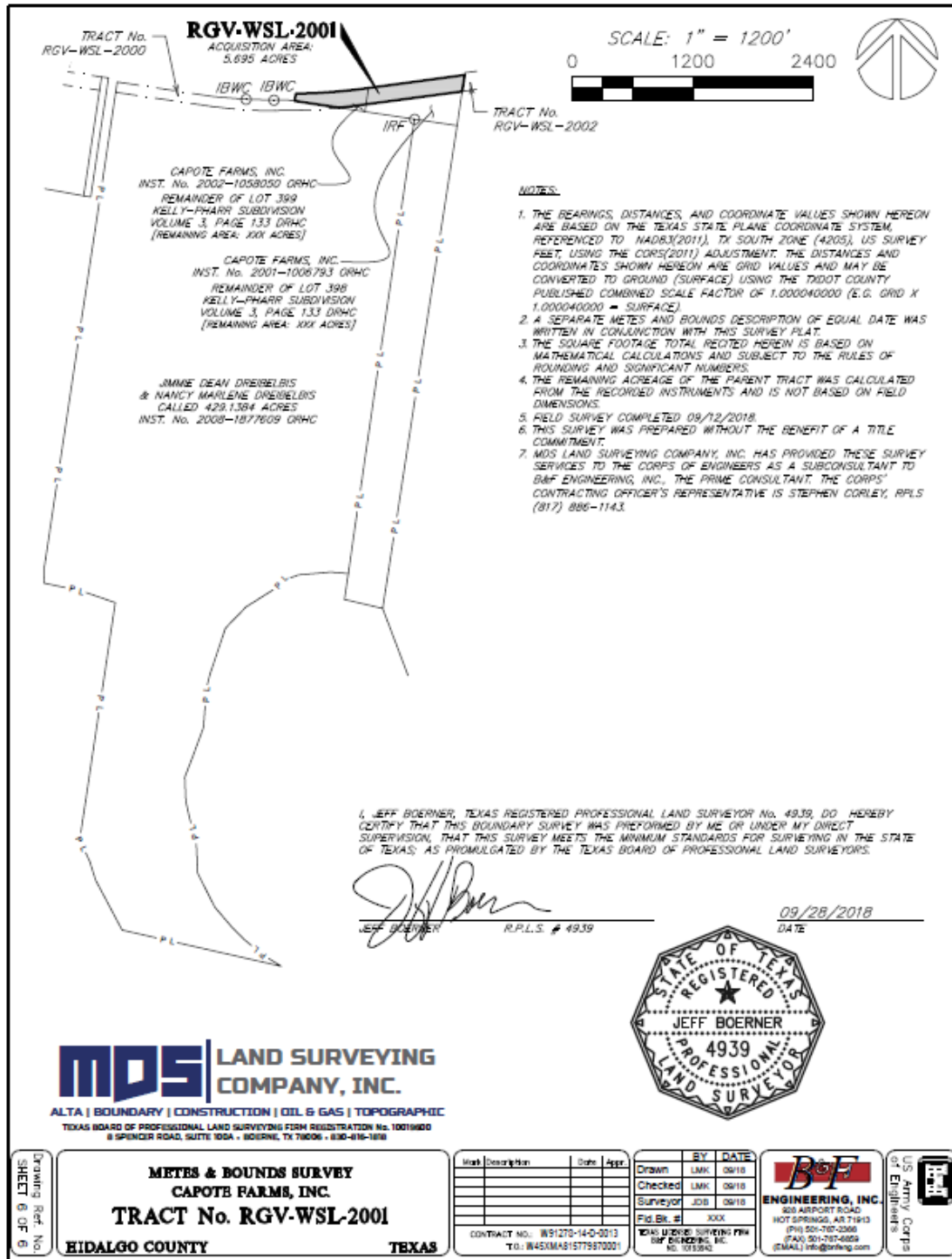
- (3) **THENCE** departing the east line of the G.S.A. Subdivision, the west line of the remaining portion of Lot 399, with the south line of the 130.0' wide Hidalgo County Irrigation District No. 2 Canal right-of-way, the following courses and distances:
- a. Along said curve to the left, having a radius of 5795.00 feet, a delta angle of  $5^{\circ}57'50''$ , an arc length of 603.20 feet and a chord bearing of N  $86^{\circ}14'46''$  E, 602.93 feet to a point for the point of tangency;
  - b. N  $82^{\circ}14'16''$  E, 1087.40 feet to a point for corner in the east line of the remaining portion of Lot 398, the west boundary line of a called 427.252 acre tract recorded in Instrument No. 2012-2321228, Official records of Hidalgo County, Texas;
- (4) **THENCE** S  $08^{\circ}34'21''$  W, with the east line of the remaining portion of Lot 398, the west line of the called 427.252 acre tract, a distance of 166.81 feet to a set 5/8" rebar with a "MDS" cap stamped "RGV-WSL-2001-6=2002-1" for the southeast corner of the herein described tract;
- (5) **THENCE** departing the east line of the remaining portion of Lot 398, the west line of the called 427.252 acre tract, the following courses and distances:
- a. S  $82^{\circ}24'15''$  W, 1146.77 feet to a set 5/8" rebar with a "MDS" cap stamped "RGV-WSL-2001-7" marking the beginning of a curve to the right;
  - b. Along said curve to the right, having a radius of 4000.00 feet, a delta angle of  $1^{\circ}13'29''$ , an arc length of 85.50 feet and a chord bearing of S  $83^{\circ}00'59''$  W, 85.50 feet to the **PLACE OF BEGINNING** containing 5.695 acres (248,077 square feet) of land, more or less.

# SCHEDULE D

Tract: RGV-WSL-2001  
Owner: Capote Farms, Ltd, et al  
Acreage: 5.695

**SCHEDULE D, cont'd**

**SCHEDULE D, cont'd**

**SCHEDULE D, cont'd**

# SCHEDULE E

**SCHEDULE E**

**ESTATE TAKEN**

Hidalgo County, Texas

Tract: RGV-WSL-2001

Owner: Capote Farms, Ltd., et al.

Acres: 5.695

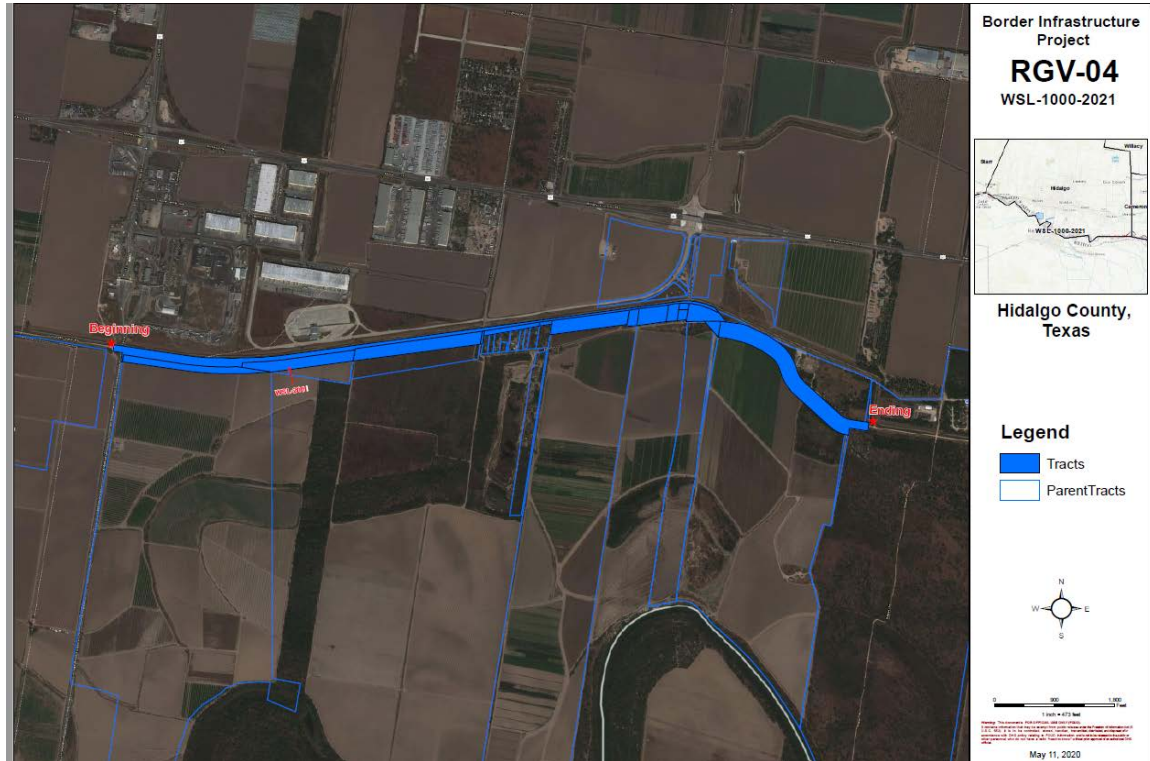
The estate taken is fee simple, subject to existing easements for public roads and highways, public utilities, railroads, and pipelines; and subject to all interests in minerals and appurtenant rights for exploration, development, production and removal of said minerals;

Reserving to the owners of the lands, Capote Farms, Ltd., successor by conversion to Capote Farms, Inc. as recorded in instrument # 2004-1386548 and identified in conveyance recorded on 4 March 2002, in the Hidalgo County Clerk, Instrument # 2002-1058050, and in conveyance recorded on 11 September 2001, in the Hidalgo County Clerk, Instrument # 2001-1006793, reasonable access to and from the owners' lands lying between the Rio Grande River and the border barrier through opening(s) or gate(s) in the border barrier between the westernmost mark labeled "Beginning" and easternmost mark labeled "Ending" depicted on the map below;

Excepting and excluding all interests in water rights and water distribution and drainage systems, if any, provided that any surface rights arising from such water rights or systems are subordinated to the United States' construction, operation and maintenance of the border barrier.



**SCHEDULE E, cont'd**



# SCHEDULE F

**SCHEDULE F**

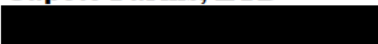
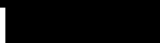

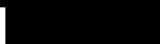
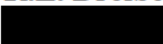

**ESTIMATE OF JUST COMPENSATION**

The sum estimated as just compensation for the land being taken is EIGHTEEN THOUSAND ONE HUNDRED THIRTY-TWO AND NO/100 (\$18,132.00), to be deposited herewith in the Registry of the Court for the use and benefit of the persons entitled thereto.

# SCHEDULE G

**SCHEDULE G****INTERESTED PARTIES**

The following table identifies all persons who have or claim an interest in the property condemned and whose names are now known, indicating the nature of each person's property interest(s) as indicated by references in the public records and any other information available to the United States. See Fed. R. Civ. P. 71.1(c).

Interested Party	Reference
<b>Capote Farms, LTD</b>  Pharr, Texas 	General Warranty Deed, Document #2002-1058050; Recorded March 4, 2002; Official Records of Hidalgo County  Deed, Document #2001-1006793, Recorded September 11, 2001; Official Records of Hidalgo County
<b>Capote Farms GP, LLC</b>  Pharr, Texas 	Certificate of Limited Liability (as part of Articles of Conversion), Doc #1386548, filed September 19, 2004; Official Records of Hidalgo County
<b>R.L. Dreibelbis</b>  San Juan, Texas 	Tenant per CIP and OC Title Opinion
<b>Pablo "Paul" Villarreal, Jr.</b> Hidalgo County Tax Assessor/Collector 2804 S. Business Hwy 281 Edinburg, Texas 78539	Taxing authority

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

**DEFENDANTS**

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding    ☐ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from Another District (specify)    ☐ 6 Multidistrict Litigation - Transfer    ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

**FOR OFFICE USE ONLY**

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE